

NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 03-202-01

***Habitat Conservation and Restoration
EFH Delegations of Authority***

EFH DELEGATIONS OF AUTHORITY - BACKGROUND

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 [Approving Authority name]
 [Approving Authority title]

EFH DELEGATIONS OF AUTHORITY

June 30, 2000

Issue – The AA has developed NOAA Circulars to redelegate various Magnuson Act authorities for fishery management plan actions. With the SFA and the advent of EFH in 1996, the National Habitat Program needed to develop new NOAA Circulars to cover EFH actions. The current issue relates to delegating authorities to the level deemed appropriate by each RA.

Status – The AA redelegated authorities for EFH actions to each RA on August 31, 1999. That delegation authorized each RA to request authority to redelegate to the Deputy RA or ARA-Habitat Conservation for EFH consultations. In the past few months, each region but the SW has contacted F/HC to request redelegation to a more appropriate level below the RA. The package before us fulfills those RA requests.

Reason for Further Delegations – For nearly 30 years, National Habitat Program staff have reviewed state and federal actions and provided comments to other agencies. Letters have traditionally been signed at the ARA-HC level. Nationally, these actions account for thousands of letters from NMFS regions to other agencies each year. EFH heightened the importance of NMFS reviews by requiring us to provide comments and conservation recommendations, when appropriate based on adverse impacts to designated EFH. The proposed redelegations clarify that EFH reviews will be conducted at the same field level where reviews have traditionally been conducted, unless specified otherwise by the RA. The new procedures have been determined by each RA to be the most efficient and effective way to implement the EFH mandate in their region.

Proposals – The five regions have taken different approaches to this redelegation, as follows:

- Alaska and Northeast - Signatory authority for routine EFH consultations will be delegated to the ARA-HC except for when NMFS is the action agency.
- Northwest and Southeast - Delegate all authority to the ARA-HC
- Southwest - Retain authority at the RA level

Exclusions – There are three important exclusions from these delegations:

- Any further delegations from the ARA-HC to an area or field supervisor must be cleared by the AA and authorized in a NOAA Circular.
- All programmatic consultations and general concurrences must be signed by the RA.
- The AA retains the authority for F/HC to work with the RA on issues of national significance.

Recommendation – We recommend that you sign the decision memo and four new NOAA Circulars.

